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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/993,050 | 11/14/2001 | Josef W. Tichy | A34752 | 8142 |
| 21003 | 7590 | 08/11/2004 | EXAMINER | |
| BAKER & BOTTS 30 ROCKEFELLER PLAZA NEW YORK, NY 10112 | | | CECIL, TERRY K | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1723 | |

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|---------------------------------------|--|--|
| Office Action Summary | Application No. 09/993,050 | Applicant(s) TICHY, JOSEF W. | |
| | Examiner Mr. Terry K. Cecil | Art Unit 1723 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION***Claim Rejections - 35 USC § 102***

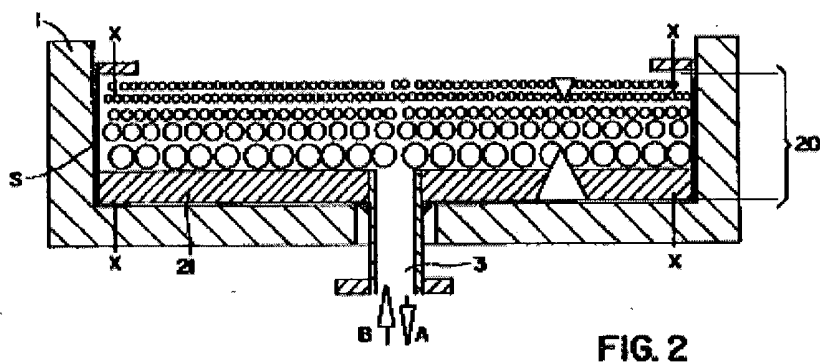
1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1 and 9-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Dillier (U.S. 5,637,216).



As shown in his figure 2, Dillier teaches a plurality of filter layers increasing in fineness toward the inlet side (top), wherein the layers are sintered together and to a filter mat of the filter body. Drainage channels exist between the layers and at port 3. The step of claim 13 is also taught in col. 3, lines 50-56.

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Claim Rejections - 35 USC § 103

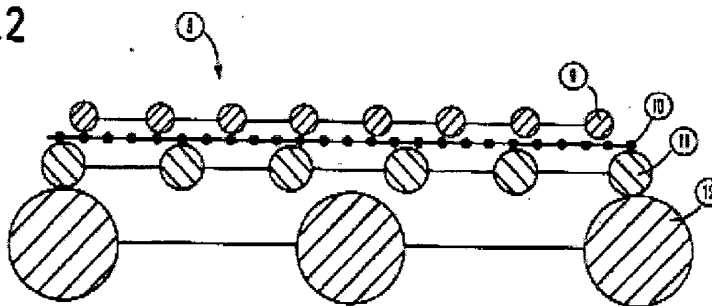
3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 2-8 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dillier in view of Just et al. (U.S. 4,954,268). Dillier has been expanded above and teaches layers of metal media to create a filter mat. Dillier doesn't specifically teach a filter fabric. However, such is taught by Just.

FIG. 2

Just teaches a rotary pressure filter [as in claim 18] using a four layer sintered laminate of metal filter fabric cloth (col. 1, lines 20-22 and lines 49-50) [as in claims 2 and 8]. It is considered that

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it would have been obvious to one ordinarily skilled in the art at the time of the invention to have the media of Dillier to be the metal fabric cloth of Just, since Just teaches the benefit of a high strength fabric that can retain all suspension particles (col. 2, lines 50-52) and has a gradient fineness—a desired by Dillier. It is considered that it would have been obvious to one ordinarily skilled in the art at the time of the invention to include the modified filter plate of Dillier in the rotary pressure filter of Just, since Dillier teaches use in reversible-flow filtering devices (col. 1, lines 9-10) and Just desires a blow-back flow (col. 3, lines 4-5).

The limitations of claim 3-5 clearly taught by both references including the coarser fabric layer on the inlet side of claim 5, see figure 3, of Dillier and figure 2 of Just. As for claims 6-7, since each of the filter layers are sintered together and then all the layers are sintered to the base 21 of the filter plate body, the limitation that certain layers are “connected” to the body contact surface is met.

5. Claims 14-15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dillier in view of Arterbury et al. (U.S. 5,293,935). Dillier fails to teach surface treating, e.g. electropolishing, the filter mat before/after connection thereof. However, Arterbury teach such an electropolishing step (see col. 5-7). It is considered that it would have been obvious to one ordinarily skilled in the art at the time of the invention to have the step of Arterbury in the method of producing a filter plate of Dillier (before or after the connection step), since Arterbury teaches the benefit of improving corrosion resistance by removing scratches, metal debris and embedded abrasive particles (col. 9, lines 39-41).

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6. Claims 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dillier in view of Nehls (U.S. 5,399,265). Nehls teaches spraying a filter with a Teflon coating [as in claims 14 and 16]. It is considered that it would have been obvious to one ordinarily skilled in the art at the time of the invention to have the step of treating the surface of the filter of Dillier with Teflon of Nehls, in the method of Dillier, since Nehls teaches the benefit of assisting in filter cake release and preventing clogging (col. 1, lines 54-60).

Response to Arguments

7. Applicant's arguments with respect to the claims have been considered but are moot in view of the new grounds of rejection. Also, claims 16-17 indicated as allowable in the prior office action are now rejected in the above action.

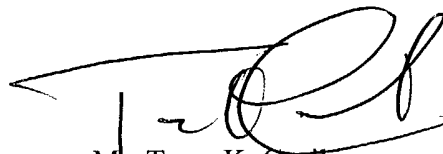
Priority

8. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Germany on 11/2000. It is noted, however, that applicant has not filed a certified copy of the German application as required by 35 U.S.C. 119(b).

9. Contact Information:

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- Examiner Mr. Terry K. Cecil can be reached at (571) 272-1138 at the Carlisle campus in Alexandria, Virginia for any inquiries concerning this communication or earlier communications from the examiner. Note that the examiner is on the increased flextime schedule but can normally be found in the office during the hours of 8:30a to 4:30p, on at least four days during the week M-F.
- Wanda Walker, the examiner's supervisor, can be reached at (571) 272-1151 if attempts to reach the examiner are unsuccessful.
- The Fax number for this art unit for official faxes is 703-872-9306.
- Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mr. Terry K. Cecil
Primary Examiner
Art Unit 1723

TKC
August 6, 2004